



*Satellite Broadcast*

## **DOMESTIC VIOLENCE RESTRAINING ORDERS: THE BASICS**

This broadcast is for court staff working with the public on domestic violence issues relating to restraining orders. We will explore the critical role of the clerk in this vital area of public service and provide technical guidance that will enable effective and sensitive processing of restraining orders from filing to disposition.

### **Objectives:**

- Identify the different types of restraining orders and the elements of each type,
- Identify key elements of effective and sensitive service at the counter from filing to disposition, and
- Identify the mandatory requirements for completion of the filing documents.

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### **QUIZ** *(True or False)*

1. If the court does not specify a termination date, the protective order expires in one year.
2. Personal service of the Restraining Order After Hearing is not required if the person to be restrained was personally served with the Temporary Restraining Order and Notice of Hearing.
3. Most domestic violence cases are based on false allegations.
4. Women beat men at about the same rate as men beat women.
5. The court has 48 hours to make a determination on Request for Order.

6. Violence between a man and woman in a hotel is civil harassment.
7. An Emergency Protective Order (EPO) is effective for 5 judicial and 7 calendar days.
8. A minor under the age of 18 cannot file a request for protective order.
9. Removal of firearms is solely at the discretion of the judge and no particular hearing is required.
10. Parties may agree to mutual protection orders by stipulation.
11. The court is required to provide five free certified copies of the protective order.
12. If the parties have a domestic violence restraining order, and there is a criminal protective order also in place, the domestic violence order has priority.



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### **Hypothetical Susan and Mark**

You are the clerk in your court who reviews applications for temporary restraining orders under the Domestic Violence Prevention Act.

Susan is 17 and has a baby. Her father is a police officer, who kicked her out of the family home when she became pregnant by her boyfriend, Mark. Susan seems to have some problems with substance abuse. She lives with her friend's family, and is coming to the courthouse to file an application for a Temporary Restraining Order (TRO) against Mark.

Mark is 18 and has a good job. He plays on a community basketball team with your brother and is good friends with your brother. Like Susan, he also seems to have some substance abuse problems.

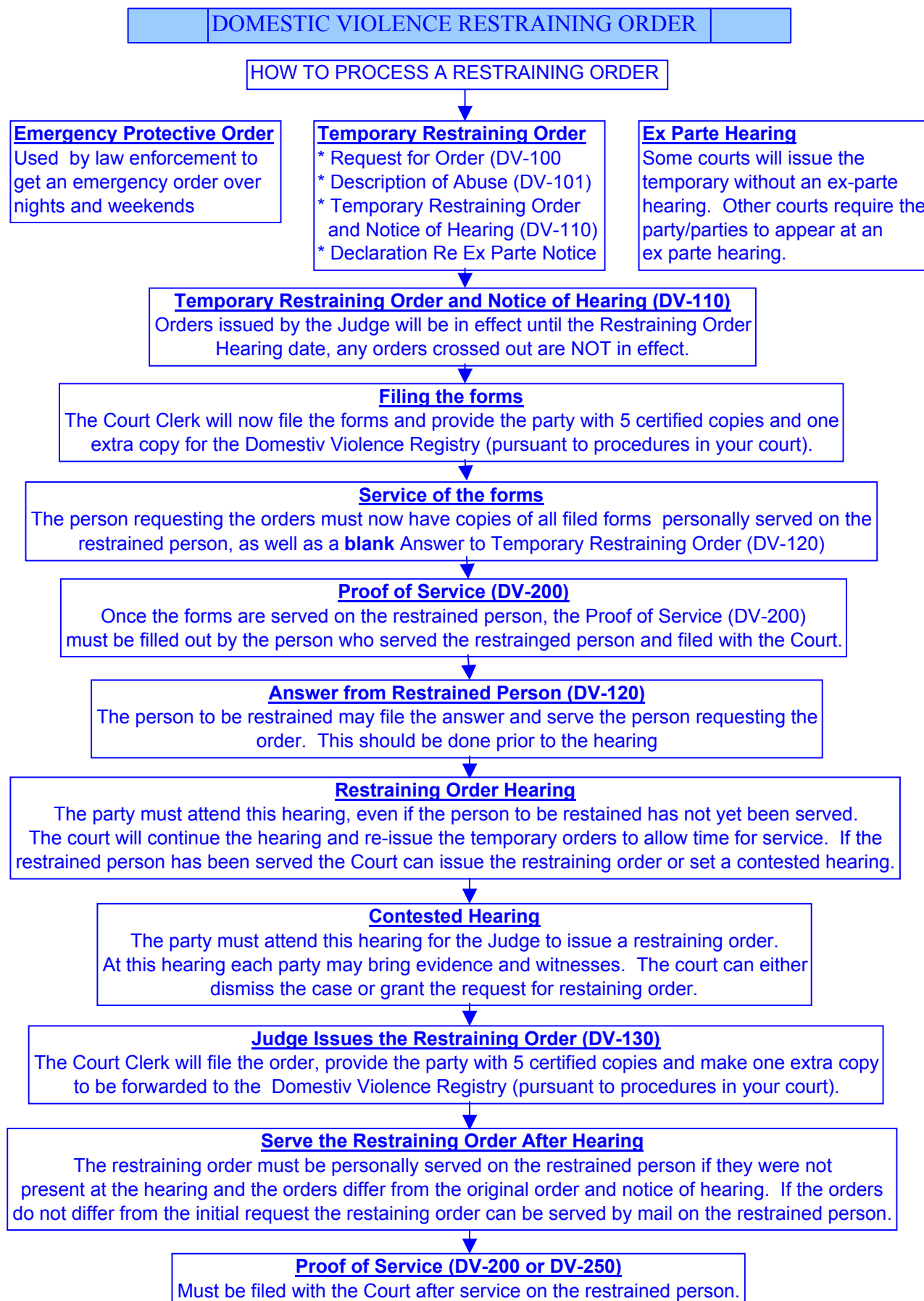
You notice Susan wandering in the hallway of the courthouse with the baby, who is crying. She appears to be lost. It is 4:30 p.m. on Friday; you have an important appointment at 5:00 and were hoping to leave a little early. Susan has brought her Domestic Violence Prevention Act (DVPA) application with her but it is incomplete. It is also the second time she has applied for such an order (she did not come to the hearing for the first order so the temporary order expired). You read her application which contains a threat to take the baby away from Susan that Mark allegedly made that morning. You notice that Susan's version of what has happened between the two of them over the last few weeks is different from what your brother told you recently.

When you tell Susan her papers are incomplete, she starts to cry. She says she is scared to take the bus home as she thinks Mark may be waiting for her outside the courthouse. She also says she can't stay much longer at her friend's house and will soon have no place to go. Just then Mark shows up.

### Questions:

1. Are there issues here that make this a difficult case? What are they?
2. Would it be hard to be impartial in this situation? If yes, why?
3. What is your response, as the clerk, to Susan at this point?
4. What resources are in your courthouse or community that could help you assist Susan?

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Courtesy of:  
Janet Davis, Superior Court of Amador County  
Linda Daeley, Superior Court of Orange County

# COMPARISON OF PROTECTIVE ORDERS

<u>CHARACTERISTICS/ RELIEF AVAILABLE</u>	<u>DOMESTIC VIOLENCE PROTECTIVE ORDERS</u>	<u>FAMILY LAW ORDERS</u>	<u>CIVIL HARASSMENT</u>	<u>PROTECTIVE ORDER ELDER ABUSE</u>	<u>WORKPLACE VIOLENCE</u>	<u>EMERGENCY PROTECTIVE ORDER</u>
PERSONAL CONDUCT ORDERS	YES	NO	YES	YES	YES	YES
STAY AWAY ORDERS	YES	NO	YES	YES	YES	YES
RESIDENCE EXCLUSION ORDERS	YES	NO	NO	YES	NO	YES
PERSONAL PROPERTY ORDERS	YES	YES	NO	NO	NO	NO
TEMPORARY CUSTODY ORDERS	YES	YES	NO	NO	NO	YES
TEMPORARY VISITATION ORDERS	YES	YES	NO	NO	NO	NO
BATTERER'S TREATMENT/COUNSELING	YES	YES	NO	NO	NO	NO
TEMPORARY CHILD SUPPORT	YES	YES	NO	NO	NO	NO
TEMPORARY SPOUSAL SUPPORT	NO	YES	NO	NO	NO	NO
RESTITUTION/DEBT PAYMENT	YES	YES	NO	NO	NO	NO
ATTORNEY'S FEES/COSTS	YES	YES	YES	YES	YES	NO
FIREARM RESTRICTION	YES	NO	YES	NO	YES	NO
EXPIRATION OF TEMP. ORDER	HEARING DATE	HEARING DATE	HEARING DATE	HEARING DATE	HEARING DATE	5 <sup>TH</sup> COURT OR 7 <sup>TH</sup> CALENDAR DAY (WHICHEVER IS EARLIEST NOT COUNTING DATE ISSUED)
HANDWRITTEN	YES	YES	YES	YES	YES	YES
FILING FEE	NO	YES	YES, IF NO VIOLENCE	NO	YES, IF NO VIOLENCE	NO
WHO MAY REQUEST ORDERS	CURRENTLY/ FORMERLY MARRIED, RELATED BY BLOOD, MARRIAGE OR ADOPTION, LIVE OR FORMERLY LIVED TOGETHER, HAVE HAD A DATING OR ENGAGEMENT RELATIONSHIP, ARE PARENTS OF A MINOR CHILD TOGETHER FC6211	ANY PARTY TO THE ACTION	ANY PERSON NOT FALLING UNDER DVPA OR ELDER ABUSE	AGE 65 OR OLDER AGE 18 TO 64, PHYSICALLY/ MENTALLY LIMITED (CANNOT CARRY OUT NORMAL ACTIVITIES OF PROTECT HIS/HER RIGHTS)	EMPLOYER	LAW ENFORCEMENT
LENGTH OF PERMANENT ORDER	UP TO 3 YEARS	UNTIL MODIFIED	UP TO 3 YEARS	UP TO 3 YEARS	UP TO 3 YEARS	5-7 DAYS

Courtesy of Janet Davis, Superior Court of Amador County

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<b>Civil Harassment</b>	<b>Domestic Violence</b>
<b>RELATIONSHIP</b>	<b>RELATIONSHIP</b>
Unrelated person	Relatives, In-laws, Relatives by Adoption – within the 2 <sup>nd</sup> degree
Related person or relative – 3 <sup>rd</sup> degree or more	Live/lived with, have/had intimate or dating relationship
All persons who do not fall under DV relationship requirements	Engaged/married or used to be engaged/married
	Parents of a child under 18 years
	Voluntary Declaration of Paternity signed regarding their children
<b>PROTECTION FROM</b>	<b>PROTECTION FROM</b>
Violence	Bodily injury, including attempts, apprehension of imminent bodily injury
Threat of violence	Sexual assault
Stalking	Threats
Actions over a period of time that cause emotional distress	Stalking
Harassing phone calls, mail, emails, faxes	Harassing phone calls, mail, emails, faxes
	Destroying personal property
	Disturbing the peace
<b>PURPOSE</b>	<b>PURPOSE</b>
Personal conduct orders	Personal conduct/stay-away orders
Stay-away orders	Firearm restrictions
Firearm restrictions	Move-out orders
	Custody/visitation/child support orders
	Record communications
	Property control/debt payment/property restraint
	Batterer's treatment
	Payment of attorney fees, costs, lost wages, etc. related to domestic violence
<b>FEES</b>	<b>FEES</b>
Filing fee, in some situations	No filing fee
Service fee, in some situations	No service fee, if done by law enforcement